

FILED

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE
TWENTIETH JUDICIAL DISTRICT AT NASHVILLE

2009 JUN 23 PM 1:50
RICHARD B. FOOKER, CLERK

STATE OF TENNESSEE, *ex rel*
ROBERT E. COOPER, JR., ATTORNEY
GENERAL and REPORTER,

Plaintiff,

v.

MICHAEL H. SNEED,

Defendant.

Case No. 09C2025

MOTION FOR STATUTORY TEMPORARY INJUNCTION

The State of Tennessee, by and through Robert E. Cooper, Jr., Attorney General and Reporter, at the request of the Mary Clement, Director of the Division of Consumer Affairs of the Department of Commerce and Insurance, moves this Court for a statutory temporary injunction, pursuant to Tenn. Code Ann. § 47-18-108(a) of the Tennessee Consumer Protection Act of 1977 ("TCPA") and Tenn. Code Ann. § 23-3-101, *et seq.*, the Unauthorized Practice of Law and Improper Conduct statutes ("UPL statutes"), enjoining Defendant Michael H. Sneed, his employees, agents, successors, representatives, and assigns, and other persons in active concert or participation with the Defendant who receive actual notice of the temporary injunction order, from engaging, directly or indirectly, in any acts which are unlawful, unfair or deceptive to consumers as prohibited or required below.

DEFINITIONS

For the purposes of this Temporary Injunction Motion, the following terms are defined as:

(1) “Clearly and Conspicuously” shall mean a statement that, regardless of the medium in which it is made, is readily understandable and presented in such size, color, contrast, duration, physical or temporal location or volume (if applicable), compared to the other information with which it is presented, that it is readily apparent to the person to whom it is disclosed. If a statement modifies, explains, or clarifies other information with which it is presented, that statement may not contradict or be inconsistent with any other information with which it is presented. If a statement is necessary to prevent other information from being unfair, misleading or deceptive, then the statement must be presented in proximity to that other information, in a manner that is readily noticeable, readable, and understandable, and it must not be obscured in any manner. To be “Clear and Conspicuous” warnings, disclosures, limitations, or exceptions must be set out in close temporal or physical conjunction with the benefits or items described or referenced, or with appropriate captions, of such prominence that warnings, disclosures, limitations, or exceptions are not minimized, rendered obscure, presented in an ambiguous fashion, or intermingled with the context of another statement so as to be confusing, contradictory, or misleading.

(2) “Consumer” or “Client” shall mean any person, a natural person, individual, governmental agency or other entities, partnership, corporation, trust, estate, incorporated or unincorporated association, and any other legal or commercial entity however organized.

(3) “Deceptive” or “Deception” shall mean causing or tending to cause a consumer to believe what is false or misleading or tending to mislead a consumer as to a matter of fact.

(4) “Defendant” shall refer to Michael Sneed and/or any and all officers, directors, owners, employees, managers, partners, parents, subsidiaries, successors, assigns, agents and representatives acting on behalf of Michael Sneed.

(5) “Legal services” shall mean any service which would constitute the practice of law or law business under Tenn. Code Ann. § 23-3-101 *et seq.*

(6) “Law business” shall mean the advising or counseling for a valuable consideration of any person as to any secular law, or the drawing or the procuring of or assisting in the drawing for a valuable consideration of any paper, document or instrument affecting or relating to secular rights, or the doing of any act for a valuable consideration in a representative capacity, obtaining or tending to secure for any person any property or property rights whatsoever, or the soliciting of clients directly or indirectly to provide such services.

(7) “Practice of law” shall mean the appearance as an advocate in a representative capacity or the drawing of papers, pleadings or documents or the performance of any act in such capacity in connection with proceedings pending or prospective before any court, commissioner, referee or any body, board, committee or commission constituted by law or having authority to settle controversies, or the soliciting of clients directly or indirectly to provide such services.

(8) "TCPA" shall refer to the Tennessee Consumer Protection Act of 1977 and related statutes found at Tenn. Code Ann. § 47-18-101 *et seq.*

(9) "UPL statutes" shall refer to the Unauthorized Practice and Improper Conduct statutes and related statutes found at Tenn. Code Ann. § 23-3-101 *et seq.*

(10) "Unfair" or "Unfairness" shall mean causing substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition.

INJUNCTIVE RELIEF

The State moves this Court for a statutory temporary injunction prohibiting Defendant Michael Sneed, his employees, agents, representatives, successors and assigns, and any other person or entity in active concert or participation with Michael Sneed, who receive actual notice of the Temporary Injunction Order, from engaging, directly or indirectly the following conduct:

- (1) The practice of law or law business in the State of Tennessee;
- (2) Any act or practice that violates Tenn. Code Ann. § 23-3-101, *et seq.*, relating to the unauthorized practice of law;
- (3) Representing or implying in any way that Defendant Michael Sneed is licensed or otherwise authorized to practice law in the State of Tennessee;
- (4) Any unfair or deceptive acts or practices in the conduct of Defendant's business that violate the TCPA, Tenn. Code Ann. § 47-18-101, *et seq.*;
- (5) Failing to clearly and conspicuously disclose and inform consumers, including but not limited to clients existing at the time of the suspension Order, that the Defendant has been suspended from the practice of law and cannot legally offer legal services in the State of Tennessee.
- (6) Advertising, promoting, selling or offering for sale legal services or law business when Defendant cannot legally and lawfully offer those services in the State of Tennessee;

- (7) Maintaining an office or any other place of work with a sign or any other indication or representation of any type that Defendant is an attorney at law (or term or phrase of similar import) unless Defendant also prominently posts in reasonably close proximity to any such signage indicating Defendant is an attorney at law and which cannot be immediately removed or covered, a clear and conspicuous notice, in both English and Spanish, stating that Defendant Michael Sneed has been suspended from the practice of law for a period of eighteen (18) months beginning on February 24, 2009 and therefore cannot practice law in the State of Tennessee and directing any former consumers or clients seeking information about their legal representation to the attorney designated by the Court to inventory all of Defendant's files, and shall also include the address and phone number of the attorney so appointed. Further, should the status of Defendant's license to practice law in the State of Tennessee change during the pendency of this litigation, Defendant shall, within no more than 24 hours of receiving such notice of any such change in status, modify all notices referred to above to accurately reflect the current status of his license to practice law.
- (8) Representing, stating, promoting, advertising, claiming, airing, publishing, posting or implying or otherwise making available to consumers any advertisement or other representation that Defendant is an attorney, attorney at law, lawyer, abogado, licenciado, or terms or phrases of similar import, during any time that Defendant's license to practice law is suspended or during any time that Defendant is otherwise not in good standing or in possession of a valid Tennessee law license, such as but not limited to disbarment;

- (9) Advising, counseling or meeting with consumers or clients for the purpose of giving legal advice in new or pending legal matters;
- (10) Entering or attempting to enter into any contract or agreement to represent or provide legal services to any consumer in the State of Tennessee or in any court or tribunal in the state of Tennessee;
- (11) Appearing in any court in the State of Tennessee representing any person or business other than himself;
- (12) Representing or implying that Defendant's legal services have approval, characteristics, uses or benefits that Defendant's legal services do not have or involve;
- (13) Representing or implying that a consumer transaction involving legal services confers or involves rights, remedies or obligations that it does not have or involve;
- (14) Representing or implying that Defendant's legal services are of a particular standard, quality or grade when they are not;
- (15) Using statements in advertisements which create a false impression of the quality or value of the legal services offered;
- (16) Causing likelihood of confusion or misunderstanding as to Defendant Sneed's affiliation, connection or association with, or certification by the Board of Professional Responsibility, the Tennessee Board of Law Examiners, the Tennessee Supreme Court, or other State of Tennessee agencies, or entities;
- (17) Making or preparing any pleading or filing with any court in the State of Tennessee on behalf of any person or business other than himself;
- (18) Accepting the appointment by any court or tribunal to represent any person as an

attorney in the State of Tennessee;

- (19) Upon entry of any temporary injunction order, accepting, collecting, cashing, transferring, depositing, or otherwise processing any monies or valuable consideration from any consumer into any of his bank accounts or any bank account that he has an interest in for any monies or other valuable consideration from any person for legal services to be performed or performed by the Defendant. Defendant shall immediately provide any such monies received under fee agreements or other oral agreements entered into before the entry of this Order to the attorney appointed pursuant to the requested temporary injunction;
- (20) Transferring, disposing of, or otherwise removing any assets from his offices or residence, any bank or escrow accounts that contain funds relating in any way to his representation of persons as an attorney or when engaging in law business in the State of Tennessee or on behalf of any consumer or clients in the State of Tennessee.

Further, should the temporary injunction be granted, on the day of entry of the Order, Defendant shall provide the Court with an accounting of all assets in his possession or held on his behalf relating to his representation of consumers as clients or when engaging in law business in the State of Tennessee or on behalf of any consumer in the State of Tennessee and a list of all bank accounts and the amounts in those accounts.

The State further requests that this Court appoint an attorney to inventory the files of the Defendant and take any action deemed appropriate to protect the interests of the consumers who retained the Defendant to provide legal services or legal representation including retaining the files in such a fashion to protect and preserve any confidences and

privileges such as, but not limited to, attorney-client, work product or other confidences that might attach to each such file, document or information as it relates to a specific consumer or client's legal affairs. In addition, the State requests that the attorney appointed have all powers, duties and obligations of an attorney appointed under Rule 9, Section 22 of the Rules of the Tennessee Supreme Court.

PRAYER FOR RELIEF

In support of this Motion, the State relies upon the Memorandum of Facts and Law in Support of the Statutory Temporary Injunction Motion to be filed at a later date, the Complaint already filed in this action against the Defendant, and the exhibits attached to this Motion, and prays as follows:

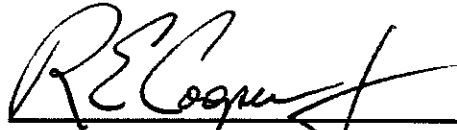
1. That this court will issue an order setting this matter for an expedited hearing.
2. That a statutory temporary injunction order consistent with the terms described above be entered and accompanied by findings of fact and conclusions of law without cost bond as provided in Tenn. Code Ann. §§ 47-18-108(a)(4) and 23-3-103(c)(3).
3. That this Court find that the State has met its burden for a statutory temporary injunction and has demonstrated, based on the materials submitted and arguments of counsel, a substantial likelihood of success on the merits of its claims under the Tennessee Consumer Protection Act of 1977 and the UPL statutes.
4. That the Defendant shall pay all court costs associated with this Motion for Statutory Temporary Injunction and all related filings, any hearing and that no costs shall be taxed to the State as provided by Tenn. Code Ann. 47-18-108(a)(4).

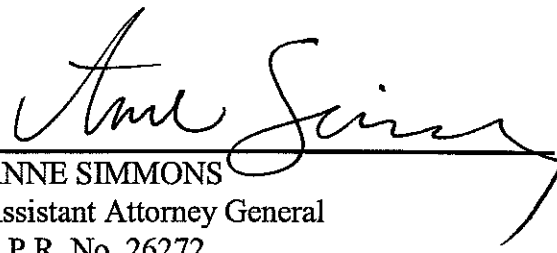
5. That this Court appoint an attorney to inventory the files of the Defendant and take any action deemed appropriate to protect the interests of the consumers who retained the Defendant to provide legal services or legal representation as detailed in this Motion. Further that any third party in possession of any files of the Defendant or Defendant's former clients who is made aware of this Court's Order be required to deliver any such files, or copies thereof to the attorney so appointed.
6. That this Court will reserve awarding attorneys' fees relating to this Motion and any hearings associated with it.

This Motion should be granted because the Defendant has engaged in and is currently engaging in violations of the UPL statute and the TCPA.

**THIS IS THE FIRST APPLICATION FOR EXTRAORDINARY RELIEF FILED
BY THE PLAINTIFF IN THIS CASE.**

Respectfully submitted,


ROBERT E. COOPER, JR.
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B.P.R. No. 10934


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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was sent via facsimile and via U.S Mail on this the 23 day of June 2009 to:

Michael Sneed
3141 Kinwood Dr.
Antioch, TN 37013-1347

Michael Sneed
525 Gallatin Pike S.
Madison, TN 37115
(615) 612-6280


ANNE SIMMONS